



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 19, 1996

Ms. Elaine L. Fannin
Assistant General Counsel
Texas Department of Agriculture
P.O. Box 12847
Austin, Texas 78711

OR96-2443

Dear Ms. Fannin:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 35299.

The Texas Department of Agriculture ("TDA") received an open records request for a copy of the investigative report in TDA Incident No. 05-95-0026, a copy of which was submitted by the TDA to us for review. The TDA states that it has provided the requestor with a copy of the report with the medical records contained therein redacted. The TDA contends that the redacted information in the submitted report should be excepted from disclosure pursuant to section 552.101 of the Government Code.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 5.08 of the Medical Practice Act, V.T.C.S. article 4495b, provides:

(a) Communications between one licensed to practice medicine, relative to or in connection with any professional services as a physician to a patient, is confidential and privileged and may not be disclosed except as provided in this section.

(b) Records of the identity, diagnosis, evaluation, or treatment of a patient by a physician that are created or maintained by a physician are confidential and privileged and may not be disclosed except as provided in this section.

In addition, section 5.08(j)(3) provides for further release of confidential medical records obtained with a valid consent for release only if the disclosure "is consistent with the authorized purposes for which consent to release the information was obtained." *See also* V.T.C.S. art. 4495b, § 5.08(c). We have reviewed the information submitted to this office. We agree that the medical record pages, Bates-stamped 00017-00043, are confidential and may be released only as provided by the Medical Practice Act.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch
Assistant Attorney General
Open Records Division

VDP/rho

Ref.: ID# 35299

Enclosures: Submitted documents

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(w/o enclosures)